

UNITED STATES DISTRICT COURT
for the
Eastern District of Pennsylvania

United States of America)
v.)
Donald Baker) Case No. 20-MJ-1526
)
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)

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of June 7, 2020 in the county of Northampton in the
Eastern District of Pennsylvania, the defendant(s) violated:

<i>Code Section</i>	<i>Offense Description</i>
18 U.S.C. § 2252(a)(2), (b)(1)	Distribution and attempted distribution of child pornography

This criminal complaint is based on these facts:

See attached affidavit of Kathryn Murray, Special Agent, Department of Homeland Security, Homeland Security Investigations ("HSI")

Continued on the attached sheet.

/s/ Kathryn Murray

Complainant's signature

HSI Special Agent Kathryn Murray

Printed name and title

Sworn to before me and signed in my presence.

Date: 09/16/2020

/s/ Carol Sandra Moore Wells, U.S.M.J.

Judge's signature

City and state: Philadelphia

Honorable Carol Sandra Moore Wells, U.S.M.J.

Printed name and title

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Kathryn Murray, a Special Agent with the Department of Homeland Security, being duly sworn, depose and state as follows:

INTRODUCTION

1. I am a Special Agent with the Department of Homeland Security, Immigration and Customs Enforcement, Homeland Security Investigations (“HSI”), assigned to the Special Agent in Charge in Philadelphia, PA. I have been so employed since August 2004. As part of duties as an HSI special agent, I investigate criminal violations pertaining to the illegal production, distribution, receipt and possession of child pornography, in violation of 18 U.S.C. § 2252. I have had the opportunity to observe and review numerous examples of child pornography (as defined in 18 U.S.C. § 2256) in all forms of media including computer media. I have also participated in the execution of numerous arrest and search warrants, a number of which involved child exploitation and/or child pornography offenses.

2. This affidavit is made in support of a criminal complaint charging Donald Baker, date of birth July 31, 1956, with violating 18 U.S.C. § 2252(a)(2) and (b)(1) (distribution and attempted distribution of a visual depiction of a minor engaged in sexually explicit conduct) on or about June 7, 2020.

3. I am familiar with the information contained in this Affidavit based upon the investigation I have conducted, information provided by other law enforcement officers who have engaged in numerous investigations involving child exploitation, and information from other witnesses.

4. Because this Affidavit is being submitted for the limited purpose of demonstrating probable cause in support of the attached criminal complaint, I have not included each and every

fact known to me concerning this investigation. I have set forth only those facts that I believe are necessary to establish probable cause for the arrest of Donald Baker.

STATUTORY AUTHORITY

5. This investigation concerns alleged violations of Title 18, United States Code, Sections 2252(a)(2) and (b)(1), which prohibit any person from knowingly distributing, or attempting or conspiring to distribute, any visual depiction using any means or facility of interstate or foreign commerce, or that has been mailed or shipped or transported in or affecting interstate or foreign commerce, or which contains materials which have been mailed or so shipped or transported, by any means including by computer, or knowingly reproducing any visual depiction for distribution using any means or facility of interstate or foreign commerce, or in or affecting interstate or foreign commerce or through the mails, if the production of such visual depiction involved the use of a minor engaging in sexually explicit conduct and such visual depiction is of such conduct. The term "child pornography" means "any visual depiction . . . of sexually explicit conduct, where . . . the production of such visual depiction involves the use of a minor engaging in sexually explicit conduct." 18 U.S.C. § 2256(8)(A).

PROBABLE CAUSE

6. Skype is a telecommunications application that is owned by Microsoft Corporation. Skype specializes in providing video chat and voice calls between computers, tablets, mobile devices, gaming consoles, and other electronic devices over the internet. Skype also provides instant messaging services that allow a user to transmit text, video, audio and images.

7. On June 8, 2020, Skype reported to the National Center for Missing and Exploited Children ("NCMEC") that child pornography material had been located on their servers.

Specifically, Skype reported that on June 7, 2020 at 19:15:26 hours UTC¹, two picture files were uploaded utilizing Skype by a user with the account name: bakerdonald92 (“Baker Skype Account”).

8. Skype provided to NCMEC the two picture files that were uploaded by the Baker Skype Account. Your affiant has viewed both picture files. Based on my training and experience, both picture files depict child pornography as defined in 18 U.S.C. § 2256.

9. Skype also provided the Internet Protocol address (“IP Address”²) logins for the Skype account on June 7, 2020 at the time the two picture files were uploaded. The IP address was 70.44.93.224.

10. On June 24, 2020, an administrative summons was issued to PeneTeleData for subscriber information for the 70.44.93.224 IP address. Based on the records received, the IP address was subscribed to an individual named Donald Baker, with an address of 5088 Driftwood Drive, Easton, PA 18040 and phone number of 484-788-5077.

11. Law enforcement subsequently performed additional investigation showing that Donald Baker resided at the 5088 Driftwood Drive address, including:

a. On July 8, 2020, at approximately 0630 hours, law enforcement conducted surveillance at the address. A dark in color 2019 GMC Acadia, bearing Pennsylvania registration LDS-3175, was present in the driveway. A check of the vehicle’s registration was

¹ UTC stands for Universal Time Coordinated and is four hours earlier than Eastern Standard Time.

² An “IP address,” as used herein, refers to a unique numeric or alphanumeric string used by a computer or other digital device to access the Internet. Every computer or device accessing the Internet must be assigned an IP address so that Internet traffic sent from and directed to that computer or device may be directed properly from its source to its destination. Most Internet Service Providers (“ISPs”) control a range of IP addresses. IP addresses can be “dynamic,” meaning that the ISP assigns a different unique number to a computer or device every time it accesses the Internet. IP addresses might also be “static,” if an ISP assigns a user’s computer a particular IP address that is used each time the computer accesses the Internet. ISPs typically maintain logs of the subscribers to whom IP addresses are assigned on particular dates and times.

conducted, and the vehicle was registered to Donald Baker, the same name as the subscriber of the 70.44.93.224 IP address, at the 5088 Driftwood Drive address.

b. On July 8, 2020, at approximately 0735 hours, law enforcement conducted additional surveillance. Law enforcement observed Baker operating the aforementioned 2019 GMC Acadia traveling south on Route 611, south of the residence. The individual operating the vehicle matched the individual pictured in Baker's Pennsylvania Driver's License.

c. A search of publicly available Northampton County property records at www.ncpub.org was conducted for the address. The "in care of name," which refers to the owner of the property, listed was as Donald Baker.

d. A Pennsylvania Department of Transportation driver license query was conducted for the name Donald Baker. One match was located—an individual named Donald Baker with date of birth July 31, 1956 and address of 5088 Driftwood Drive.

e. As discussed in Paragraph 14, Baker was at the property when agents executed a search warrant on July 14, 2020.

12. On or about July 6, 2020, a search of a law enforcement database was conducted for the name Donald Baker with a date of birth of July 31, 1956. The search revealed that Baker was currently a Pennsylvania State Police Megan's Law Registrant. Baker was previously convicted in 2005 with two counts of distribution of child pornography, in violation of 18 U.S.C. 2252A (a)(2), in the Middle District of Florida (Tampa Division). During the Megan's Law Registration process, Baker indicated his email address was bakerdonald92@gmail.com. During the registration process, Baker also provided a home phone number, which matched the phone number listed in the PenTeleData subscriber information (484-788-5077).

13. Based in part on the foregoing information, on July 13, 2020, Pennsylvania State Trooper Anthony Reppert applied for and was granted a search warrant by Northampton County District Judge Alicia Zito for the 5088 Driftwood Drive address. The warrant also authorized the agents to search and seize electronic devices, such as computers and phones, which could be used to commit child pornography-related offenses.

14. On July 14, 2020, law enforcement officers executed the search warrant. Baker was inside the property when the warrant was executed. He was advised by agents that he was not under arrest and was free to leave. Baker acknowledged that he understood, executed a written waiver of rights form, and agreed to speak with agents regarding the investigation. Baker stated the following:

- a. He has lived at the address alone for six years. His sister and her husband visit once per year, but had not visited in 2020.
- b. He has Internet service at the address, and he pays the bill.
- c. He has wireless Internet (“WiFi”) and initially stated that he did not think the WiFi was password protected. Baker was shown a list of Wi-Fi networks near his house, and he identified his Wi-Fi network from the list. The network was determined to be password protected. Baker stated that he did not provide the password to any of his neighbors.
- d. He uses a computer, cellphone, laptop and an iPad at the house, and all devices are attached to the Internet. Baker stated that no one else uses those devices.
- e. His Google email address is “bakerdonald92”—i.e., bakerdonald92@gmail.com, the same email address associated with Baker’s Megan’s Law registration.

f. He stated that he used Skype in the past and that his account was shut down due to a violation of Skype's terms of service. He initially stated that he did not remember his username, but later stated that when he first started to use Skype one year ago, he used the username associated with the Baker Skype Account—i.e., bakerdonald92.

15. Pursuant to the warrant, the agents seized several devices, including an HP Laptop Model #15DA0014DX, Dell Inspiron 24 Model 5459, and iPhone Model 11. A forensic examination revealed that each device contained images depicting child pornography.

16. The Dell computer also contained the several files with naming conventions associated with child pornography. The file path of these files linked to Microsoft OneDrive, a cloud-based file storage program operated by Microsoft.

17. Based on this information and other information uncovered during the investigation, on July 20, 2020, Northampton County District Judge Samuel P. Murray issued a search warrant to Microsoft for information associated with the Skype and OneDrive accounts associated with the email address bakerdonald92@gmail.com, including subscriber information and contents of Skype communications.

18. On or about August 5, 2020, Microsoft returned the aforementioned search warrant. A review of the search warrant response revealed:

a. The Baker Skype Account was subscribed to an individual named Donald Baker, with the billing address of 5088 Driftwood Drive, Easton, Pennsylvania 18040—the same address that, as discussed in Paragraphs 10, 11, and 14, is associated with Donald Baker—and the email address bakerdonald92@gmail.com—the same address that, as discussed in Paragraphs 12 and 14(e), is associated with Donald Baker.

b. On or about June 7, 2020, the user of the Baker Skype Account distributed to another Skype user several images, which, based on your affiant's training and experience, depict child pornography as defined in 18 U.S.C. § 2256. For example, one image depicts a prepubescent male who is performing oral sex on another prepubescent male. Another image depicts a prepubescent male who is receiving manual stimulation from an adult male.

c. On or about June 7, 2020, the user of the Baker Skype Account received from another Skype user several images, which, based on your affiant's training and experience, depict child pornography as defined in 18 U.S.C. § 2256. For example, one image file depicts a prepubescent male with his shorts and underwear pulled down, exposing his penis. Another image depicts a prepubescent male lying on a bed, with his legs spread, exposing his scrotum and anus.

CONCLUSION

19. Based on this investigation, I submit that there is probable cause to believe that Donald Baker distributed and attempted to distribute child pornography, in violation of 18 U.S.C. Section 2252(a)(2), (b)(1) on or about June 7, 2020, in the Eastern District of Pennsylvania, in that he knowingly distributed, and attempted to distribute, a visual depiction—i.e., the images described in Paragraph 18(b)—using any means and facility of interstate and foreign commerce, and that had been shipped and transported in and affecting interstate and foreign commerce by any means, including by computer, and the producing of which involved the use of minors engaged in sexually explicit conduct, and the visual depictions were of such conduct.

20. Accordingly, I request that the attached arrest warrant be issued authorizing the arrest of Donald Baker, date of birth July 31, 1956.

Respectfully submitted,

/s/ Kathryn Murray
KATHRYN MURRAY
Special Agent, Homeland Security
Investigations

Subscribed and sworn to
before me this 16th day of
September, 2020

/s/ Carol Sandra Moore Wells, U.S.M.J.
HONORABLE CAROL SANDRA MOORE WELLS
United States Magistrate Judge